

ORDINANCE NO. 1394
Series of 2013

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TELLURIDE, COLORADO AMENDING CHAPTER 6 OF THE TELLURIDE MUNICIPAL CODE BY THE ADDITION OF A NEW ARTICLE 6 REGULATING RETAIL MARIJUANA STORES AND MARIJUANA TESTING FACILITIES, PROHIBITING THE OPERATION OF MARIJUANA CULTIVATION FACILITIES (BUT NOT CULTIVATION OPERATIONS), MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND MARIJUANA PRIVATE CLUBS AND PROHIBITING MARIJUANA ON TOWN-OWNED OR LEASED PROPERTY.

WHEREAS, on November 6, 2012, the voters of the State of Colorado approved Amendment 64, “Personal Use and Regulation of Marijuana” which adds a new Section 16 to Article XVIII of the Colorado Constitution; and

WHEREAS, on May 28, 2013, the governor signed House Bill 13-1317 into law enacting Title 12, Article 43.4 of the Colorado Revised Statutes (the “Colorado Retail Marijuana Code”), which regulates the cultivation, manufacture, distribution, and sale of Retail Marijuana; and

WHEREAS, the Colorado Retail Marijuana Code states that on or after October 1, 2013, businesses engaged in the cultivation, manufacture, or sale of Marijuana or Marijuana Products shall apply for a License subject to its terms and conditions and any rules promulgated pursuant thereto; and

WHEREAS, the Colorado Constitution also authorizes counties and municipalities in Colorado to prohibit or regulate Retail Marijuana businesses and to adopt regulations consistent with the intent of the state law; and

WHEREAS, pursuant to Amendment 64, a “locality,” defined to include a municipality, may “prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance;” and

WHEREAS, pursuant to Amendment 64, the Town may also prohibit or otherwise regulate the consumption, use, display or growing of marijuana on or in Town owned or leased property; and

WHEREAS, the Town Council has carefully considered the provisions of Section 16 of Article XVIII of the Colorado Constitution, and the impact of Marijuana cultivation and sale for personal use on the health, safety and welfare of the Town and the inhabitants thereof, and has determined, as an exercise of its police power and local land use authority, to regulate Retail Marijuana Stores and cultivation operations and Marijuana Testing Facilities; and

WHEREAS, it is the desire of the Town Council of the Town of Telluride, Colorado to update any Ordinance of the Telluride Municipal Code that may be in conflict with the Colorado State Constitution. In order to comply with the Colorado Retail Marijuana Code and the new state licensing scheme, the Town Council has determined to make changes to Chapter 6, of the Telluride Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF TELLURIDE, COLORADO as follows:

Section 1.

The Telluride Municipal Code is amended by the addition thereto of a new Article 6 to Chapter 6, which is to read as follows:

Section I General

Sec. 6-6-101 Findings and Purpose.

The Town Council of the Town of Telluride will Permit and regulate Retail Marijuana Stores within the Town. The Town Council finds that that the cultivation, possession, sale and use of Retail Marijuana may be harmful to public health, safety, and welfare if not carefully regulated. This Article is designed to protect Public Health, Safety, and Welfare from the potential adverse effects of Retail Marijuana.

It is the intent of this Article of the Telluride Municipal code and this Retail Marijuana licensing scheme to implement a local licensing Authority and rules for licensing Retail Marijuana Stores, pursuant to Colorado Retail Marijuana Code.

It is not the intent of this Article of the Telluride Municipal Code and this Retail Marijuana licensing scheme to alter or amend the zoning restrictions specified in the Land Use Code ("LUC") Section 3-910. Rather, this licensing scheme and Chapter of the Telluride Municipal Code are designed to implement a local licensing Authority and distinct rules for licensing Retail Marijuana Stores, pursuant to the Colorado Retail Marijuana Code, C.R.S. § 12-43.4-101, *et. seq.*, that is separate and distinct from the zoning aspects of LUC Article 3, Division 9, and the provisions of this Chapter of the Telluride Municipal Code, it is the intent of the Town Council to have the provisions of the Telluride Municipal Code govern and control should a direct conflict exist.

The Town Council may impose local licensing requirements, separate from those of the State, as part of its restrictions on time, place, manner, and number of Retail Marijuana businesses pursuant to C.R.S. § 12-43.4-301(2).

Sec. 6-6-102 Incorporation of General Licensing Provisions.

The provisions of the Telluride Municipal Code shall apply to this Article except where they may be inconsistent with the provisions of this Article.

Sec. 6-6-103 Definitions.

The following definitions shall apply throughout this Article:

- (a) The definitions contained in Section 16, Article XVIII, Colorado Constitution and C.R.S. § 12-43.4-101, *et. seq.*, shall apply to this Chapter except where the ordinance provides a different definition or the context of this Article makes it clear that the statutory or constitutional definition does not apply.
- (b) **"Adjacent Grounds"** means all areas that the Licensee has an exclusive right to possess by virtue of his ownership or lease, which are outside the enclosed Licensed Premises, but adjacent and contiguous to the Licensed Premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots, and similar areas and all fixed and portable things in those areas, including but not limited to lights, signs, speakers, and security devices.
- (c) **"Alarm System"** means a device or series of security devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in process).
- (d) **"Applicant"** means a Person that has submitted an application pursuant to these rules that was accepted by the Authority but has not been approved or denied by the Authority.
- (e) **"Authority" or "Local Licensing Authority"** means the Retail Marijuana Licensing Authority, which may be either an individual hearing officer or a Board.
- (f) **"Batch Number"** means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Retail Marijuana Cultivation Facility to a specific Batch of Retail Marijuana.

- (g) **"Batch"** means a specifically identified quantity of processed Retail Marijuana that is uniform in strain and potency, cultivated utilizing the same herbicides, pesticides, and fungicides, and harvested during the same cultivation cycle.
- (h) **"Cannabinoid"** means any of the chemical compounds that are the active principles of marijuana..
- (i) **"CBD"** means cannabidiol.
- (j) **"CBDA"** means cannabidiol-acid.
- (k) **"CBG"** means cannabigerol.
- (l) **"CBN"** means cannabinol.
- (m) **"Character and Record"** includes all aspects of a Person's Character and Record, including but not limited to moral character, criminal record serious traffic offenses, record of previous sanctions against liquor licenses, gambling licenses, medical or Retail Marijuana licenses, which the Person owned, in whole or in part, or in which the Person served as a principal, manager, or Employee; education, training, experience, civil judgments, truthfulness, honesty, and financial responsibility.
- (n) **"Colorado Retail Marijuana Code"** means § 12-43.4-101, *et. seq.*, Colorado Revised Statutes.
- (o) **"Colorado Retail Marijuana Code Rules" or "Rules"** means rules related to the Colorado Retail Marijuana Code promulgated by Colorado Department of Revenue Marijuana Enforcement Division codified in the Colorado Code of Regulations at 1 CCR 212-2.
- (p) **"Consumer"** means a Person twenty-one (21) years of age or older who purchases marijuana or marijuana products for personal use, but not for resale to others.
- (q) **"Container"** means the sealed package in which Retail Marijuana or a Retail Marijuana Product is placed for sale to a patient and that has been labeled according to the requirements pursuant to § 12.43.4-202 C.R.S. and set forth in the Rules.
- (r) **"Cultivation Operations"** means the premises or portion of a premises that is accessory to and operated by a Licensed Retail Marijuana Store or Licensed Medical Marijuana establishment.
- (s) **"Denied Applicant"** means any Person whose application for licensure pursuant to the Retail Code has been denied.
- (t) **"Division"** means the Marijuana Enforcement Division.
- (u) **"Employee"** means the Licensee's or proposed Licensee's Employees.
- (v) **"Good Cause"** for purposes of denial or discipline of a License or permit means:
 - i. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Retail Code, any rules promulgated pursuant to the Retail Code, or any supplemental relevant state or local law, rule, or regulation;
 - ii. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the License pursuant to an order of the State and/or Local Licensing Authority;
 - iii. The Licensee's Licensed Premises or Adjacent Grounds have been operated in a manner that adversely affects the public health, safety, or welfare of the public; or
 - iv. The Licensed Premises or Adjacent Grounds have been operated in a way that substantially deviates from the operational plan approved by the Authority.
- (w) **"Label" or "Labeling"** means all Labels and other written, printed, or graphic matter upon a Container holding Retail Marijuana or a Retail Marijuana Product.
- (x) **"License"** means to grant a License or registration pursuant to the Colorado Retail Marijuana Code and this Article. Issuance of a License gives the Licensee the ability to operate a Retail Marijuana Store, provided that the Licensee also obtains a State License.
- (y) **"Licensed Premises"** means the Premises specified in an application for a License pursuant to the Retail Marijuana Code that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, or test Retail Marijuana in accordance with the provisions of the Retail Code and the Rules and this Article.
- (z) **"Licensee"** means any Person licensed pursuant to the Colorado Retail Marijuana Code and this Article.
- (aa) **"Limited Access Area"** means a building, room, or other contiguous area upon the Licensed Premises where Retail Marijuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under control of the Licensee. All areas of ingress or egress to Limited Access Areas shall be clearly identified as such by a sign as designated herein.
- (bb) **"Marijuana"** means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, derivative, mixture, or

preparation of the plant, its seeds, or resin, including concentrate. "Marijuana" does not include industrial hemp, fiber produced from the stalks, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink, or other product.

- (cc) **"Marijuana Products"** means concentrated Marijuana Products and Marijuana Products that are comprised of Marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.
- (dd) **"Medical Marijuana"** means Marijuana that is grown and sold pursuant to the Medical Marijuana Code at § 12.43.3-101, *et. seq.*, C.R.S.
- (ee) **"Medical Marijuana Business"** means a licensed Medical Marijuana Center, a Medical Marijuana-Infused Products Manufacturing Business, or an Optional Premises Cultivation Operation.
- (ff) **"Notice of Denial"** means a written statement from the State or local Licensing Authority articulating the reasons or basis for denial of a License application.
- (gg) **"Occupational Licensee"** means a Person who has an Occupational License issued by the Division.
- (hh) **"Order to Show Cause"** means a document from the State or local Licensing Authority the grounds for imposing discipline against a Licensee's License.
- (ii) **"Owner"** means the Person or Persons whose beneficial interest in the License is such that they bear risk of loss other than as an insurer, and have an opportunity to gain profit from the operation or sale of the establishment.
- (jj) **"Permit"** when used as a verb means to:
 - i. Participate in or contribute to an act, conduct, or omission;
 - ii. Consent to or condone an act, conduct or omission;
 - iii. Know or have reason to know that an act, conduct, or omission is or may be occurring, or probably will occur unless steps are taken to prevent the same, and failing to take reasonable steps to halt, thwart or prevent the same; or
 - iv. Ignore, avoid knowledge or notice of, or turn a blind eye to an act, conduct or omission that may be occurring.
- (kk) **"Person"** means a natural Person, partnership, association, company, corporation, limited liability company, or organization; except that "Person" does not include any governmental organization.
- (ll) **"Premise"** means a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.
- (mm) **"Principal"** means
 - i. In the case of any entity, including any general or limited partnership, corporation, limited liability company, or other entity: any Person who has a five percent (5%) or greater interest in the ownership of the entity, and any Person who has the day-to-day authority to or actually does manage the entity's finances.
 - ii. In the case of a corporation: the Persons described for any entity in Subsection (mm)(i)) and the president, vice-president, secretary, chief executive officer, chief financial officer, and any Person who holds five percent (5%) or more of the capital stock of the corporation.
 - iii. In the case of a limited liability company: the Persons described for any entity in Subsection (mm)(i) and any member of the limited liability company.
 - iv. In the case of a sole proprietorship, the individual Owner.
- (nn) **"Public"** means any area that the public may generally enter, including any business open to the public. The term includes the Licensed Premises and the Adjacent Grounds. The term includes Persons in motor vehicles located in a Public place.
- (oo) **"Registered Manager"** every Licensee shall designate one (1) Registered Manager and delegate to the Registered Manager authority over the day-to-day operations of the Licensee and the responsibility to ensure that the Licensed Premises and adjacent premises are operated in compliance with this Article.
- (pp) **"Retail Marijuana"** means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including Marijuana concentrate that is cultivated, manufactured, distributed, or sold by a Licensed Retail Marijuana Establishment. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the

weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink, or other product.

- (qq) **“Retail Marijuana Cultivation Facility”** means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Stores, to Retail Marijuana Product Manufacturing Facilities, and to other Retail Marijuana Cultivation Facilities, but not to Consumers, as described in § 12-43.4-403, C.R.S.
- (rr) **“Retail Marijuana Establishment”** means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, or a Retail Marijuana Testing Facility.
- (ss) **“Retail Marijuana Licensing Authority Hearing Officer ”** means a person the appointed by Town Council Resolution and serve at the pleasure of the Town Council authority to handle the business of the Local Licensing Authority .”
- (tt) **“Retail Marijuana Products Manufacturing Facility”** means an entity licensed to operate a business as described in § 12-43.4-404, C.R.S.
- (uu) **“Retail Marijuana Product”** means concentrated Retail Marijuana Products and Retail Marijuana Products that are comprised of Retail Marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.
- (vv) **“Retail Marijuana Store”** means an entity licensed pursuant to this Article to operate a business as described in § 12-43.4-402, C.R.S.
- (ww) **“Retail Marijuana Testing Facility”** means an entity licensed pursuant to operate a business as described in § 12-43.4-405, C.R.S.
- (xx) **“State Licensing Authority”** means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of Medical Marijuana and Retail Marijuana in Colorado, pursuant to § 12-43.3-201, C.R.S. In this State, the State Licensing Authority shall also have regulatory authority for Retail Marijuana as permitted in Section 16 of Article XVIII of the State Constitution and § 12- 43.4-201 C.R.S.
- (yy) **“THC”** means tetrahydrocannabinol.
- (zz) **“Withdrawal”** of an application does not constitute a denial of the application and shall not prevent the Applicant from re-submitting its application upon payment of a new application fee.

Section II Licensing Authority

Sec. 6-6-104 Retail Marijuana Licensing Authority

- (a) **Authority.** Pursuant to the authority granted by C.R.S. § 12-43.4-101 *et. seq.*, the Town Council hereby establishes a Retail Marijuana Licensing Authority, hereafter referred to in this Article as the “Authority” or “Local Licensing Authority” which shall be handled by the position of Hearing Officer, which officer shall be appointed by Town Council Resolution and who serves at the pleasure of the Town Council.
- (b) **Functions/Powers of Authority.**
 - i. The Authority shall have the duty and authority pursuant to the Colorado Retail Marijuana Code and this Article to grant or refuse Licenses in the manner provided by law;
 - ii. The Authority shall possess all powers given to local licensing authorities by the provisions of the Colorado Retail Marijuana Code and rules and regulations promulgated thereunder.
 - iii. The Authority shall have the power to require any Applicant or Licensee to furnish any relevant information required by the Authority;
 - iv. The Authority shall have the power to administer oaths and issue subpoenas to require the presence of Persons and the production of papers, books and records at any hearing which the Authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by the District Court of the State;
 - v. The Authority may hear and decide motions;
 - vi. The Authority may join various matters pending concerning the same License in a single hearing;
 - vii. The Authority shall have the power to impose any condition related to the License, Licensed Premises, or Adjacent Grounds that is reasonably necessary to protect public health, safety, or welfare; and

- viii. Every decision of the Authority shall be in writing, stating the reasons therefore and shall be made within thirty (30) days after the date that a complete application was submitted or within thirty (30) days of the public hearing if a public hearing is required or held. A copy of the decisions shall be sent by certified mail to the Applicant at the address shown in the application.
- ix. The Authority shall have the power to perform any other act necessary to carry out any act that the Authority is authorized to perform under this Chapter.

(c) Appeal of Authority Decisions. All appeals from the Authority shall be directly to the Town Council. Any appeal from a decision or final action of the Authority must be taken by filing with the Town Clerk a written notice of appeal within fourteen (14) days of the date of the decision or final action appealed from. On appeal, the Town Council shall consider only the record as compiled before the Hearing Officer. The decision of the Hearing Officer shall be affirmed unless the Town Council determines that the officer acted arbitrarily and capriciously, abused his or her discretion, exceeded his or her jurisdiction, acted without proper evidence or a sufficient factual basis, or otherwise failed to act in accordance with the law. The burden of proof shall be on the appellant to establish grounds for reversal. Appeals from the Town Council shall be directly to the District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

Section III ***Marijuana Enterprises***

Sec. 6-6-105 Marijuana Enterprises prohibited.

It shall be unlawful to locate or operate any Marijuana Enterprise not otherwise subject to any Town application or Town-approved permit, including but not limited to Cultivation Facilities (but not cultivation operations), Marijuana Product Manufacturing Facilities and Marijuana Private Clubs in any form or Marijuana Product vending machines in the Town of Telluride.

Section IV ***Marijuana on or in Town Owned or Leased Property***

Sec. 6-6-106 Marijuana on or in Town Owned or Leased Property prohibited.

It shall be unlawful to consume, use, display or grow Marijuana on or in any Town Owned or Leased Property.

Section V ***Operation of Retail Marijuana Stores and Marijuana Testing Facilities.***

Section 6-6-107 Generally.

For the regulation of Retail Marijuana Stores and Marijuana Testing Facilities:

(a) Complete Applications Required

- i. General Requirements
 - a. All applications for local Licenses authorized pursuant to § 12-43.4-401, C.R.S., shall be made upon forms prescribed by the Authority.
 - b. Applicants must submit a complete application to the Authority before it will be accepted or considered.
 - I. All applications must be complete in every material detail.
 - II. All applications must include all attachments or supplemental information required by the forms supplied by the Authority.
 - III. All applications must be accompanied by a full remittance for the whole amount of the application, License, or other relevant fees.
 - c. The Authority may refuse to accept an incomplete application.

- d. Every License shall be valid for one (1) year from the date it is issued unless the License is earlier revoked.
- ii. Additional Information May Be Required
 - a. Each Applicant shall provide any additional information required that the Authority may request to process and fully investigate the application.
 - b. An Applicant's failure to provide the requested evidence or information by the Authority's deadline may be grounds for denial.
- iii. Information Must Be Provided Truthfully
 - a. All Applicants shall submit information to the Authority in full, faithful, truthful, and fair manner. The Authority may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.
- iv. License and other fees
 - a. Applicants and Licensees shall pay the following fees to the Town of Telluride in addition to any fees payable to the state:
 - I. Application Packet for New License (which shall be credited against the application fee if a complete application is submitted): twenty-five dollars (\$25).
 - II. Application for New License: one thousand dollars (\$1,000.00)
 - III. Application for Renewal of a License: five hundred dollars (\$500.00)
 - IV. Application for Transfer of Location: one thousand dollars (\$1,000.00)
 - V. Application for Change of Principals or Ownership: three hundred dollars (\$300.00)
 - VI. Application for Modification of Premises: four hundred dollars (\$400.00)
 - VII. Late Renewal Fee: five hundred dollars (\$500.00)
 - b. Town Council may approve increases or decreases in fees by resolution.
 - c. In addition to the foregoing fees, Applicants and Licensees shall pay the reasonable fees of any governmental agency conducting any investigation, inspection, other licensing, registration, fingerprinting, approval, or permitting required under the Telluride Municipal Code, as amended, State law, or State regulations.
 - d. The primary purpose of the fees provided in this Section is to defray the costs of the particular municipal services provided and not to defray the costs of the general services of municipal government or to raise general revenues. The fees provided in this Section are reasonably related and proportional to the costs of the services provided and do not generate additional Town revenue.
 - e. If any License or application is denied, approved but not issued, lapsed, abandoned, withdrawn, surrendered, suspended, fined, revoked, or otherwise sanctioned, no part of the fees paid shall be refunded to the Applicant or Licensee.
- v. Coordination with State Retail Marijuana Licensing Authority and State Requirements.
 - a. The Authority shall inform the State Retail Marijuana Licensing Authority of its investigations, inspections, and all decisions approving new Licenses, issuing new Licenses, imposing conditions on Licenses, renewing Licenses, approving major changes in Licenses, information regarding minor changes, and sanctions imposed on Licenses.
 - b. To the extent that such coordination is reasonably feasible and efficient, the Authority shall coordinate its investigations and actions with the Division, but the Authority reserves the right to act independently and to reach its own findings of fact, findings of law, and conclusions regarding approvals, issuance, denials, conditions, renewals, major changes, sanctions of Licenses, and any other matter related to Licenses, without regard to the findings of fact, findings of law, and conclusions that the State may reach regarding the same Licenses based on the same incident or conduct.
 - c. The approval or issuance of a License under this Chapter shall not constitute a representation, in any way, by the Authority that the Licensee is qualified for or will receive a State Retail Marijuana License or a Marijuana Testing Facilities License.
- vi. Review of Application for a New License, determination and findings.

- a. Within ninety (90) days of the date that the Authority accepts an application for a new Retail Marijuana License or Marijuana Testing Facilities License as complete, the Authority shall review the application and issue its determination and findings. The Authority shall notify the Applicant in writing of its determination and findings by U.S. mail, certified return receipt requested or by electronic mail delivery receipt requested.
 - b. If the determination of the Authority states that the application appears to show a prima facie case for approval of a License, the Applicant shall, within thirty (30) days of the date the Authority mailed its determination and findings to the Applicant pursue one of the following options, and failure to do so shall constitute a Withdrawal of the application:
 - I. Set the application for a hearing in accordance with Section 6-6-107(b); or
 - II. Request from the Authority, in writing, a continuance of the setting of a hearing in order to satisfy deficiencies stated in the determination and findings, for no more than one-hundred and twenty (120) days from the date the Authority mailed its determination and findings to the Applicant. Failure of the applicant to set a hearing within one-hundred and twenty (120) days shall constitute a denial of the application.
- v. Renewal of License
 - a. A Licensee may renew its License by submitting an application at least thirty (30) days before and no more than ninety (90) days before the expiration of the License. If a Licensee fails to file an application for renewal of his License at least thirty (30) days before expiration of the License, the License shall expire.
 - b. A Licensee may renew a License that has expired, if:
 - I. The License has expired for less than ninety (90) days; and
 - II. The Licensee pays the regular renewal fee and an additional five hundred dollars (\$500.00) late renewal fee.
 - c. The Authority may summarily grant an application for renewal or hold a public hearing for the same if it appears from the application and other information that the Licensee is:
 - I. In compliance with this Article;
 - II. There have not been any major changes in the Licensee, the Principals, the Licensed Premises, the Adjacent Grounds, or the Registered Manager previously approved; and
 - III. There is no reason to believe that there are any grounds for sanctions or denial of the License.
 - d. The Authority shall set a public hearing on the application for renewal if it finds that there is probable cause to believe the Licensee:
 - I. Is not in compliance with this Article or has committed violations of this Article or is not in compliance with State law or State regulations pertaining to Retail Marijuana or has committed violations of State law or State regulations pertaining to Retail Marijuana or Marijuana Testing Facilities; or
 - II. There is probable cause to believe that there are grounds for sanctions as provided in this Article;
 - III. There have been any major changes described in Section 6-6-107(c)xiv or any unreported minor changes described in Section 6-6-107(c)xv.
- vi. Burden of Proof
 - a. In any proceeding under this Article to obtain approval or issuance of a License, renewal of a License, denial of a License, or to obtain approval for any new Principal, Registered Manager, Employee, or any major change, the Applicant or Licensee shall have the burden to prove, by a preponderance of the evidence:
 - a. His or her right to such License; and
 - b. That there is no Good Cause for denial of the License or approval.
 - b. In any proceeding under this Article in which any Person seeks to impose a condition on a License, the Person seeking to impose the condition shall have the burden to prove by a preponderance of the evidence that the condition is necessary to protect public health, safety or welfare.

- c. In any proceeding under this Article to impose any sanction against a License, the Town shall have the burden to prove every allegation necessary to impose a sanction by a preponderance of the evidence.

(b) License Hearings

- a. Notice for hearings on applications for new Licenses, denial of a new License, renewals of Licenses, approval of major changes and for alleged violations of this Article shall be given to the public in the manner prescribed by State law by posting a notice at least twenty-four (24) inches by twenty-four (24) inches in length in letters at least one (1) inch in height on the proposed Premises, publishing a notice in a newspaper of general circulation and publishing to the Town of Telluride website at least fifteen (15) days before the hearing.
- b. The Applicant or Licensee shall bear the responsibility of setting the matter for a hearing, and publishing and posting notices. If the hearing is for an alleged violation of this Article, the clerk to the Authority shall set the matter for a hearing and publish and post notices.
- c. All notices shall state the date, time and place of the hearing, the name of the Applicant or Licensee, the address of the proposed or Licensed Premises, and the issue before the Authority.
- d. Hearing procedures
 - a. Hearings shall be conducted in accordance with the procedures outlined in this Article. Where this Article does not address a procedural issue, the procedures in Article 43.4, Title 12, Colorado Revised Statutes, and any other procedural rules enacted pursuant to that article shall apply unless the same are clearly inconsistent with the provisions of this Article.
 - b. Failure of an Applicant or Licensee to appear at any scheduled hearing of which the Applicant or Licensee has received notice or has himself set, and for which notice was posted and published in compliance with this Article, without a showing of Good Cause verified by the Applicant's affidavit filed with the Authority within ten (10) days of the scheduled hearing, shall constitute a default and a Withdrawal of the application or motion, and a default of any complaint, Order to Show Cause, motion or other matter pending against the Licensee. Any such application or motion withdrawn by the Applicant or Licensee may not be re-filed for one year.
 - c. After an application has been filed, a hearing on the application has been set, and notice has been published and posted in compliance with this Article, any Withdrawal of the application by the Applicant shall constitute a denial of the License, unless the Town stipulates that the Withdrawal shall not constitute such a denial.
 - d. The Authority may adjourn and continue any hearing, at the request of the applicant and with the consent of the Town, to give the Applicant an opportunity to fulfill any requirement that has not been met or to make changes to its application.
 - e. Every party who has standing to be heard at a hearing shall provide a list of witnesses, exhibits, copies of any statement or reports relevant to the matter to every other party who has standing, along with copies of exhibits, at least ten (10) days before the hearing. No party shall be entitled to any additional discovery and the Authority shall not order additional discovery.

(c) Engaging in Business.

- i. No Person shall engage in the business of selling Retail Marijuana Products or engage in the business of Marijuana Testing Facilities in Town unless said Person is duly licensed by the State Licensing Authority and the Local Licensing Authority.
- ii. No Person shall operate a Retail Marijuana Store or Marijuana Testing Facilities in Town unless he or she has first obtained all relevant State and Town sales and use tax licenses and business licenses.
- iii. No Person shall operate a Retail Marijuana Store or Marijuana Testing Facilities in Town unless he or she has obtained a Certificate of Zoning Compliance, pursuant to the Telluride Land Use Code Section 3-920 for the location of the proposed Licensed Premises.

- iv. No portion of the Licensed Premises shall be located within five hundred (500) feet of any public or private school as such school is defined by C.R.S. § 12-47-103(32).
- v. The proposed Licensed Premises and Adjacent Grounds must comply with all zoning, building, plumbing, mechanical, fire, and other codes, statutes, and ordinances, as shown by completed inspections and approvals from the Telluride Planning and Building and Public Works Departments, and Telluride Fire Protection District.
- vi. The Cultivation Operations area of the Licensed Premises, if any, must:
 - a. be equipped with a ventilation system sufficient in type and capacity to eliminate marijuana odors emanating from the interior to any public property or right of way within the Town, discernible by a reasonable person. The ventilation system must be inspected and approved by the Telluride Building Department; and
 - b. have walls, barriers, locks, signs and other means in place to prevent the public from entering the area of the Licensed Premises utilized for cultivation.
- vii. No Retail Marijuana Store License or Marijuana Testing Facilities License shall be effective prior to January 1, 2014.
- viii. In the event that the People of the Town of Telluride, by a majority of the registered electors of the Town, at a regular or special election, or a majority of Town Council, vote to prohibit by ordinance the licensing and operation of Retail Marijuana Stores, within the Town of Telluride, pursuant to C.R.S. §12-43.4-301, then every License issued or approved under this Article, which is prohibited under such ordinance, shall be deemed void and the operation of any Retail Marijuana Store or Marijuana Testing Facilities prohibited under the ordinance shall become illegal on the effective day of the ordinance.
- ix. Prior to initiating a sale, the Employee making the sale shall verify that the purchaser has a valid identification card showing the purchaser is twenty-one (21) years of age or older.
- x. Personal requirements for the Licensee, Principals, Registered Manager and Employees:
 - a. The Applicant, Principals, Registered Manager, and Employees meet all requirements for issuance of a State License; including but not limited to obtaining Occupational Licenses as necessary
 - b. The Applicant, Principals, Registered Manager, and Employees are all at least twenty-one (21) years of age.
 - c. The Applicant, Principals, Registered Manager, and Employees have not been determined by any Retail Marijuana Licensing Authority, any other licensing board within the State, or the Colorado Department of Revenue to not be Persons of good Character and Record within the preceding three (3) years.
 - d. The Applicant, Principals, Registered Manager, and Employees have not discharged a sentence for any felony in the five (5) years immediately preceding the application. This shall constitute a per se and complete disqualification.
 - e. The Applicant, Principals, Registered Manager, and Employees have never been convicted of a felony pursuant to state or federal law regarding the possession, distribution, manufacturing or use of a controlled substance. This shall constitute a per se and complete disqualification.
 - f. The Applicant, the Applicant's creditors, Principals, Registered Manager, and Employees are Persons of good Character and Record. When making any determination as to good Character and Record, the Authority may consider whether an Applicant, Principal, Registered Manager, or Employee has rehabilitated himself after committing a crime or other act or omission tending to indicate that such Person is not a Person of good character, but rehabilitation shall not be considered when the crime or other disqualifying act or omission is declared a per se disqualification under this Article. Notwithstanding any other burden for proof stated in this Article, the burden of proof to show that a Person has been rehabilitated shall be beyond a reasonable doubt and shall be on the individual whose character is at issue. When evaluating claims of rehabilitation, the Authority shall consider the following factors:
 - I. The facts of the specific crime or other act tending to show bad Character and Record;

- II. Whether the specific crime or other act tending to show bad Character and Record involved controlled substances, dishonesty, fraud, bad faith, moral turpitude, or violence;
 - III. Whether the specific crime or other act tending to show bad Character and Record involved a felony, misdemeanor, municipal offense, a civil wrong, or other wrongful conduct;
 - IV. Whether the specific crime or act caused injury or harm to other Persons or entities and the extent of such harm or injury;
 - V. The length of time that has expired since the act or omission was committed;
 - VI. Whether the Person has led a law abiding life and has demonstrated good character since the act or omission was committed;
 - VII. Restitution, damages and compensation that the Person has paid to Persons victimized by the act or omission;
 - VIII. Fines, jail sentences, probation, community service and other penalties paid or served since the act was committed; and
 - IX. Any other factors tending to show that the Person has or has not rehabilitated his or her character and conduct.
- xi. All Persons licensed pursuant to this Article shall collect sales tax on all retail sales made at a Retail Marijuana Store. Failure to timely remit sales tax as required by law shall be grounds for revocation of the Licensee's Retail Marijuana License.
 - xii. The Licensee shall post the following on the Licensed Premises in a prominent place where the public, Consumers, and primary caregivers can easily view and read while standing in a location accessible to the Public:
 - a. The License certificate issued by the State, along with any conditions on the same.
 - b. The License certificate issued by the local Authority along with any condition on the same.
 - c. A notice at least eighteen (18) inches by twenty-four (24) inches in length in letters at least one (1) inch in height, stating:
 THIS RETAIL MARIJUANA LICENSED PREMISES IS MANAGED BY: (STATE NAME, ADDRESS AND PHONE NUMBER FOR REGISTERED MANAGER). THE PRINCIPALS IN THIS BUSINESS ARE AS FOLLOWS: (NAMES).
 - d. A notice at least eighteen (18) inches by twenty-four (24) inches in length in letters at least one (1) inch in height, stating:
 IF YOU HAVE CONCERNS ABOUT THE WAY THIS RETAIL MARIJUANA LICENSED PREMISES IS OPERATED, OR OTHER ACTIVITY ON THESE PREMISES, PLEASE CONTACT THE TELLURIDE MARSHAL'S DEPARTMENT AT: 728-3818; and
 - e. If the Licensee has received any sanction from the Authority during the preceding five years, a notice at least eighteen (18) inches by twenty-four (24) inches in length in letters at least one (1) inch in height, stating:
 THIS RETAIL MARIJUANA LICENSE HAS BEEN SANCTIONED BY THE TELLURIDE RETAIL MARIJUANA LICENSING AUTHORITY DURING THE PRECEDING FIVE (5) YEARS FOR THE FOLLOWING MISCONDUCT:
 (STATE DATE, VIOLATION, AND SANCTION RECEIVED, LISTING ALL VIOLATIONS AND SANCTIONS IMPOSED IN THE PRECEDING FIVE (5) YEARS).
 - f. A notice at least twenty-four (24) inches by eighteen (18) inches in letters at least one (1) inch in height, stating:
 THE RETAIL MARIJUANA SOLD ON THESE PREMISES IS CULTIVATED, MANUFACTURED AND PROCESSED WITHOUT ANY GOVERNMENTAL OVERSIGHT AS TO HEALTH, SAFETY OR EFFICACY.

THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE CONSUMPTION OF RETAIL MARIJUANA.

THE CHEMICALS, ADDITIVES, PESTICIDES, HERBICIDES, AND FERTILIZERS, ARTIFICIAL AND NATURAL, USED IN THE CULTIVATION, PROCESSING, PRODUCTION, AND STORAGE OF THE PRODUCT ARE LISTED ON THE PACKAGING OF EACH PRODUCT.

- g. A notice at least twenty-four (24) inches by eighteen (18) inches in letters at least one (1) inch in height, stating:

THE USE OF RETAIL MARIJUANA MAY IMPAIR A PERSON'S ABILITY TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY. IT IS ILLEGAL UNDER STATE LAW TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY WHILE UNDER THE INFLUENCE OF OR IMPAIRED BY MARIJUANA.

SMOKING OR CONSUMING RETAIL MARIJUANA WITHIN THESE PREMISES, WITHIN 15 FEET OF THESE PREMISES, OR ANYWHERE IN PUBLIC IS UNLAWFUL.

SMOKING OR CONSUMING RETAIL MARIJUANA CAUSES LUNG CANCER, HEART DISEASE, EMPHYSEMA, AND MAY COMPLICATE PREGNANCY.

- h. The Licensee shall post the following on the Licensed Premises in a prominent place near other notices to Employees, where the Licensee, Principals, Registered Manager, and Employees can easily view the same: a notice at least twenty-four (24) inches by eighteen (18) inches in letters at least one (1) inch in height, stating:

NOTICE TO LICENSEE, PRINCIPALS, REGISTERED MANAGER AND EMPLOYEES:

THESE PREMISES, THE ADJACENT GROUNDS, AND EVERY ROOM, AREA, LOCKER, SAFE, AND CONTAINER ON THE LICENSED PREMISES AND ADJACENT GROUNDS EXCEPT YOUR PERSON, THE PERSONAL EFFECTS IN YOUR IMMEDIATE POSSESSION, AND YOUR PRIVATE VEHICLE, ARE SUBJECT TO INSPECTION BY TOWN EMPLOYEES AND THE TOWN MARSHALS DEPARTMENT AT ANY TIME THAT ANY PERSON IS PRESENT ON THE LICENSED PREMISES, WITHOUT A WARRANT, AND WITHOUT REASONABLE SUSPICION TO BELIEVE THAT ANY OFFENSE HAS OCCURRED. YOU HAVE NO REASONABLE EXPECTATION OF PRIVACY ON THESE PREMISES AND THE ADJACENT GROUNDS EXCEPT IN YOUR PERSON, AND YOUR PRIVATE VEHICLE.

- xiii. Major changes to License, Licensed Premises, or Adjacent Grounds
 - a. The Licensee shall not make any major changes to the License, Licensed Premises, or Adjacent Grounds without first obtaining the written approval of the Authority.
 - b. The Authority may summarily approve all proposed major changes or hold a public hearing on the same, in the Authority's discretion, depending on how substantial the change appears to be and whether the proposed change is likely to cause any substantial Harm to Public Health, Safety, or Welfare.
 - c. No application for transfer of ownership, transfer of location, or other major change may be applied for or acted upon while any matter, except the subject of the major change application, is pending with the Authority or the State.
- xiv. Minor Changes to License, Licensed Premises, or Adjacent Grounds
 - a. Every Licensee shall report the following to the Authority, in writing, within ten (10) days of such event:
 - I. Any new credits or debts that the Licensee or its Principals may incur that are related to the Licensed Premises, Adjacent Grounds, or any ownership interest

in the Licensee, in a single or cumulative amount greater than ten thousand dollars (\$10,000.00);

- II. Any charges filed against or any conviction of any Principal, Registered Manager, or Employee for any felony, misdemeanor, or serious traffic offense including but not limited to any deferred judgment or entry into any diversion program ordered or supervised by a court of law; or
- III. The hiring, dismissal, or resignation of any Employee.

(d) Retail Marijuana and Medical Marijuana Possessed, Distributed and/or Processed in the Same Facility.

- a. On or after October 1, 2013, a Person who is operating in good standing a licensed Medical Marijuana Center may apply for a Retail Marijuana Store License under this Article.
 - a. An Applicant shall indicate whether he or she wants to surrender the current Medical Marijuana License or intends to retain the License in addition to the Retail Marijuana Store License.
 - b. If the Applicant indicates a desire to surrender the Medical Marijuana License, the Applicant shall continue to operate under that license until a Retail Marijuana Establishment License is approved. If the Retail Marijuana Establishment License is granted, the Applicant shall have fourteen (14) days to surrender the Medical Marijuana License to the State and Local Licensing Authority. If the Retail Marijuana License is granted, all Medical Marijuana plants and inventory shall become Retail Marijuana plants and inventory on the date of the Retail Marijuana Store License pursuant to the Colorado Retail Marijuana Code.
- b. An Applicant may apply for a Retail Marijuana Store License and retain the Medical Marijuana license. At the time the Retail Marijuana Store License is granted, the Applicant shall identify the Medical Marijuana inventory that will become Retail Marijuana inventory upon receiving the Retail Marijuana Store License.
- c. An Applicant who retains a Medical Marijuana license and obtains a Retail Marijuana Store License for the two Licensed Premises must maintain actual physical separation between the two facilities or certify by affidavit and as a condition of the Retail Marijuana Store license that it will only sell to individuals at least twenty-one (21) years of age.
- d. Cultivation operations shall maintain either physical or virtual separation of the plants and inventory of the two facilities in compliance with the Rules.

(e) Containers and Labeling.

- i. All Retail Marijuana sold at a licensed Retail Marijuana Store shall be packaged and labeled as required by the Rules.
- ii. A Retail Marijuana Store must place each sold item in a sealed, nontransparent Container, at the point of sale.
- iii. Labeling requirements for Retail Marijuana and Retail Marijuana Products sold by a Retail Marijuana Store that are at least as stringent as imposed by the Rules, and include but are not limited to:
 - a. The License number of the Retail Marijuana Store;
 - b. The batch number;
 - c. A net weight statement;
 - d. THC potency and the potency of such other cannabinoids or other chemicals, including but not limited to CBD, as determined by the State Licensing Authority;
 - e. A list of the nonorganic pesticides, fungicides, herbicides, and solvents used during cultivation or production;
 - f. A statement to the effect of "This product contains Marijuana and was cultivated or produced without regulatory oversight for health, safety, or efficacy, and there may be health risks associated with the consumption of the product";
 - g. Warning Labels;
 - h. Solvents used in the extraction process;

- i. Amount of THC per serving and the number of servings per packaging for Marijuana Products;
- j. A list of ingredients and possible allergens for Marijuana Products;
- k. A recommended use by or expiration date for Marijuana Products;
- l. A nutritional fact panel; and
- m. A universal symbol indicating the package contains Marijuana or a Marijuana Product;

(f) Security and Control Measures

- i. The Applicant has sole legal control of the proposed Licensed Premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed Licensed Premises.
- ii. The proposed Licensed Premises have a suitable Limited Access Area where the cultivation, display, storage, processing, weighing, handling, and packaging of Retail Marijuana occurs, which is posted "Employees Only," and is separated from the areas accessible to the public by a wall, counter, or some other substantial barrier designed to keep the public from entering the area.
- iii. The Applicant has submitted a security plan for the proposed Licensed Premises, which has been inspected and approved by the Marshal's Department, showing at least the following security measures:
 - a. All doors, windows and other points of entry have secure, functioning commercial grade locks;
 - b. A locking safe or enclosed metallic storage vault located inside the proposed Licensed Premises in which any Retail Marijuana and Retail Marijuana Products will be secured when the Licensed Premises are not open to the public;
 - c. If the Licensed Premises are connected by any passage or entryway to any other Premises, there is a door between the two Premises that can be locked from the Licensee side and cannot be opened from the other side;
 - d. A professionally installed and continuously monitored burglar alarm system that detects unauthorized entry at all doors, windows, and other points of entry to the Licensed Premises; and
 - e. Windows facing Adjacent Grounds and lighting of the Adjacent Grounds sufficient to ensure that customers entering and leaving the Licensed Premises, entering and exiting parked cars on the adjacent grounds, and walking across the Adjacent Grounds can be observed by Employees from inside the Licensed Premises.

(g) Books and Records

- i. Every Licensee shall maintain on the Licensed Premises, accurate and up to date books and records of the business operations, or an authentic copy of the same, including but not limited to the following:
 - a. Lists, manifests, orders, invoices, and receipts for all Marijuana, Marijuana plants, and Marijuana Products cultivated, harvested, processed, produced, delivered, purchased, stored, sold, and exchanged during the preceding two (2) years, by each transaction or event, including the date and time of each transaction, source, strain, type quantity, weight, that account for, reconcile and evidence all inventory activity for Retail Marijuana from either seed or immature plant stage until the Retail Marijuana or Retail Marijuana Product is sold to a customer and any additional relevant information for proper recordkeeping for tax purposes;
 - b. An inventory of all Marijuana Products presently on the Licensed Premises;
 - c. Sales and use taxes collected and remitted;
 - d. Excise tax collected and remitted if approved by voters in the 2013 general election; and
 - e. The name, address, and copy of the Retail Marijuana License of any other Retail Marijuana Establishment Licensee with whom the Licensee has transacted any business, including but not limited to, any purchase, sale, or exchange of Marijuana plants, harvested Marijuana, or Retail Marijuana Products.
- ii. Inspection of books and records; audits.

The Authority may require a Retail Marijuana Store Licensee to undergo an audit by an accountant that is independent of the Licensee, when it deems an audit necessary. The audit scope may include, but not be limited to financial transactions, inventory control measures, or other agreed upon procedures. The Licensee will be responsible for all direct costs associated with the independent audit.

iii. **Requests for Information**

- a. The Authority and any Town Employee enforcing any Town ordinance, State law, or regulation may submit a written request for information relevant to the Licensee by certified mail, return receipt requested at the address of the Licensed Premises.
- b. The Licensee shall provide complete written answers to such questions, signed by the Registered manager, within twenty (20) days of the date the request was mailed or delivered.
- c. The Licensee, Principals, Registered Manager, and Employees shall have no expectation of privacy in any information or document pertaining to the operation of the Retail Marijuana Store, Licensed Premises, and Adjacent Grounds as to the State or Town, but the Town shall not release the information and records as public records.

(h) Tradenames, Trademarks, Logos, and Advertising

- i. Nothing contained in this section shall be construed as creating a prior restraint on speech or press. The Authority shall not require an Applicant or Licensee to obtain any approval or License from the Authority before using any logo, trademark, tradename, or advertising. Nothing contained in this subsection shall prevent the Town from taking civil, administrative or criminal action, against any Person or License, logo, trademark, tradename, or advertising.
- ii. It shall be unlawful for any Licensee to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors. It shall be unlawful for any licensee to refer to infused Marijuana Products by solely referencing the method of transmitting such infused products such as, but not limited to, Ice Cream, Yogurt, Truffles, Candy, Soda, Caramels, Juice or Brownies. Any reference to such infused medical marijuana products each and every time must also include the word "marijuana" or phrase commonly understand as referring to marijuana.
- iii. These restrictions are intended to apply to any and all signage associated with the licensed premises, any and all advertising, in whatever format, for the licensed premises and any and all representations of the licensed premises to the public.

(i) Inspection of Licensed Premises and Adjacent Grounds.

- a. Every Licensed Premises and Adjacent Grounds shall be open to inspection by police officers, building officials, firefighters, zoning officials, sales, use, and excise tax officials, and health department officials during regular business hours and provided that the Registered Manager or Principal is present in the Licensed Premises, without obtaining a search warrant, and without reasonable suspicion to believe that any violation or criminal offense has occurred.
- b. The Licensees, Principals, Registered Managers, and Employees shall have no reasonable expectation of privacy as to the buildings, rooms, areas, vehicles, furniture, safes, lockers, or Containers on the Licensed Premises and Adjacent Grounds, except as provided in this Section. Licensees, Principals, Registered Managers, and Employees on the Licensed Premises and Adjacent Grounds shall retain a reasonable expectation of privacy with regard to their Persons, the personal effects in their immediate possession, and their own motor vehicles.

(j) Uses Prohibited.

- i. It is unlawful under State and local law to cultivate, manufacture, distribute, or sell Retail Marijuana, except in compliance with the terms, conditions, limitations, and restrictions in Section 16 of Article XVIII of the State Constitution and Article 43.4 of Title 12 C.R.S, the Rules and this Article.
- ii. There shall be no consumption of Marijuana that is conducted openly and publicly or in a manner that endangers the public health, safety, or welfare.
- iii. It is unlawful to sell, to distribute to, or allow any Person under the age of twenty-one (21) years old to possess Retail Marijuana or Retail Marijuana Products.

- iv. It is unlawful for any Licensee, Principal, Registered Manager, or Employee of a Licensee to commit any of the following acts:
 - a. To violate or to fail, neglect, or refuse to comply with any requirement of this Article Article 43.4, Title 12, Colorado Revised Statutes, or any State regulation pertaining to retail or Medical Marijuana;
 - b. To Permit any violation of this Article or any law or regulation on the Licensed Premises or the Adjacent Grounds;
 - c. To operate a Retail Marijuana center at any time that any of the requirements or conditions contained in Sections 6-6-107 are not satisfied;
 - d. To sell, dispense, or give away any Retail Marijuana, Marijuana plants, or Marijuana Product to any Person except another Retail Marijuana Licensee, to the extent and in a manner permitted by law;
 - e. To fail, neglect, or refuse to collect sales tax on any transaction or to promptly pay any tax, fee, or charge required under this Article or other Chapters of the Telluride Municipal Code;
 - f. To fail, neglect, or refuse to promptly provide any books, reports, information, documents, or answers to requests for information required under this Article;
 - g. To violate any ordinance, statute, or regulation on the Licensed Premises or Adjacent Grounds;
 - h. To violate an condition or to Permit the violation of any condition placed on a License under this Article;
 - i. To Permit anyone under the age of twenty-one (21) to be present on the Licensed Premises;
 - j. To permit any Person who is not an Employee to enter a Limited Access Area;
 - k. To Permit any Employee to enter a Limited Access Area without a visible Employee duly issued Licensed Occupational badge;
 - l. To conduct any processing, packaging, display, sale, or exchange of Marijuana plants, harvested Retail Marijuana, or Marijuana Product outside the Licensed Premises except in compliance with the Rules and the Colorado Retail Marijuana Code;
 - m. To fail, neglect, or refuse to package and Label any Retail Marijuana plant, harvested Marijuana, sold or exchanged on the Licensed Premises in compliance with this Article and the Rules;
 - n. To transport any quantity of Retail Marijuana without carrying with the Retail Marijuana a written manifest showing the following information, or to refuse to provide to any law enforcement officer upon demand a written manifest of the following information:
 - I. The weight and volume of Marijuana carried;
 - II. A description of the make, model, and VIN number of the vehicle carrying the Retail Marijuana;
 - III. The name and address of the driver of the vehicle;
 - IV. The name and address of the Licensed Retail Marijuana Establishment from which the Retail Marijuana originated;
 - V. The name and address of the Licensed Retail Marijuana Establishment to which the Retail Marijuana is being delivered;
 - VI. The date and time that the Marijuana departed the licensed Medical Marijuana facility where the Marijuana originated; and
 - VII. The intended route from source to destination.
- v. A Retail Marijuana Store shall not sell more than one-fourth (1/4) of an ounce of Marijuana or Marijuana Products to a non-resident of the State of Colorado during a single transaction.
- vi. A Retail Marijuana Store may not sell any Retail Marijuana Product that contains nicotine or alcohol.

(k) Disciplinary Actions Against Licenses and Licensees.

- i. How a Disciplinary Action is Initiated
 - a. If the Local Licensing Authority, on its own initiative or based on a complaint, has reasonable cause to believe that a Licensee has violated the Retail Code, any rule or

- regulation promulgated pursuant to it, or any of its orders, the Local Licensing Authority shall issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why its license should not be suspended or revoked.
- b. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended or revoked should the charges contained in the notice be sustained upon final hearing.
- ii. Hearings to be conducted in accordance with "License Hearings" above.
 - iii. Sanctions
 - a. Upon a finding of a violation by Licensee of any of the provisions of this Article, the Authority may impose any one or more of the following sanctions against a License or the Licensee, in whatever combination the Authority finds appropriate, except that no sanction may be used in addition to revocation:
 - I. A Licensee who has new conditions imposed on this License as a sanction shall bring the Licensed Premises into compliance with the new condition within such period as the Authority may specify in its order. Failure to do so may be grounds for further sanctions.
 - II. A fine in an amount to be determined by the Authority, but not to exceed one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both. A Licensee who has been sanctioned with a fine shall pay the fine and costs imposed within the time specified in the Authority's order. In the event that the fine is not paid within the time specified, the Authority may impose any suspended License suspension or impose alternative or additional sanctions for failure to pay the fine or costs in a timely manner.
 - III. A suspension for up to one hundred and eighty (180) days;
 - a) The Authority may summarily suspend any License without notice or hearing if the Authority finds that there is probable cause to believe that:
 - i. The Licensee or its Principals, Registered Manager, or Employees have committed a willful or deliberate violation of this Article or State law or State regulations; and
 - ii. The continued operation of the Retail Marijuana License poses an immediate and substantial threat to public health, safety, and welfare, such that waiting the time required to hold a regular disciplinary hearing would probably result in substantial Harm to Public Health, Safety and Welfare.
 - b) If the Authority imposes a summary suspension it shall notify the Licensee in writing as soon as is practical that it has been summarily suspended, that it must close its Licensed Premises, and the date, time, and place of the hearing to follow, within three (3) business days.
 - c) The Authority shall set a full hearing on the sanctions to be imposed for the violation that led to the summary suspension to be held with fifteen (15) days from the date the Licensee was first informed of the summary suspension and required to close the Licensed Premises, unless the Authority finds at the hearing or upon the Town's motion, that there is no longer probable cause to believe that a violation occurred.
 - d) A Licensee whose License has been suspended shall:
 - i. Close the Licensed Premises to all Persons except the Registered Manager and Employees during the term of the suspension;
 - ii. Post a notice on every entrance to the Premises regarding the sanction, as described in Section 6-6-107(c)xiii.
 - IV. The reasonable costs of investigating, prosecuting, and hearing the violation, including the direct and indirect costs of the Town Attorney, police officers,

witnesses, subpoenas, hearing officer, and other Town Employees utilized in any proceeding for sanctions; and

V. Revocation.

A Licensee whose License has been revoked shall:

- a) Close the Licensed Premises and dispose of all Retail Marijuana on the Licensed Premises through legal means within such time and by such means as the Authority may order.
- b) Not to be eligible to apply for a new License for a period of two (2) years.

VI. The Authority may impose the following sanctions for contempt:

- a) Removal of the Person committing the contempt from the proceedings, the hearing room and its environs;
- b) Public censure, which shall be made a matter of the Licensee's record and may be used as an aggravating factor in determining any fine, suspension, or revocation;
- c) A prohibition against the individual or Licensee introducing into the record testimony, documents, exhibits, or other evidence;
- d) An order striking, disregarding and refusing to consider pleadings, applications, documents, objections, testimony, exhibits, or other evidence or arguments already introduced by such Person;
- e) A fine, enforced by suspension of the License until the fine is paid;
- f) Default of any motion, Complaint, or other action then pending against the Licensee; or
- g) Denial of any application by the Licensee then pending before the Authority.

b. In determining the appropriate sanction, and whether any sanction or portion of a sanction should be suspended, the Authority shall consider the following factors:

- I. The severity of the violation;
- II. Whether the violation was committed deliberately, willfully, intentionally, knowingly, recklessly, wantonly, negligently, or accidentally;
- III. Whether the Licensee profited or gained some competitive advantage from the violation or attempt to do so;
- IV. Potential and actual harm to residents, businesses, and the reputation of the Retail Marijuana industry;
- V. Harm to Public Health, Safety, and Welfare;
- VI. Warnings, whether written or verbal, given to the Licensee, Principals, Registered Manager, or Employees by the Authority or any State or Town Employee before the violation occurred;
- VII. The deterrent effect of the sanction on the Licensee and other Licensees;
- VIII. Whether the violation was committed or permitted by a Principal, Registered Manager, or Employee;
- IX. Previous violations by the Licensee, Principals, Registered Manager or Employees of the same or different nature and at the same or different Licensed Premises, including contempt;
- X. Steps taken by Licensee before the violation occurred to prevent violations from occurring;
- XI. Any plans that the Licensee may present showing how it intends to remedy the problem and prevent the same and similar violations in the future; and
- XII. Any other aggravating or mitigating factors, except those the Authority may not legally consider.

c. In determining the appropriate sanction the Authority shall not consider the following factors:

- I. Gender, race, ethnicity, ancestry, religion, or sexual orientation;
- II. The Licensee's business income at the Licensed Premises, except as provided in C.R.S. §12-43.4-601(3) C.R.S. for fines in lieu of suspension;

- III. The probable effect of the sanction on the Licensee's finances;
- IV. Any criminal sanction imposed on any Person as a result of the same or related conduct;
- V. Any administrative penalty imposed by the State as a result of the same or related conduct;
- VI. Any civil judgment imposed as a result of the same or related conduct;

(l) Evidence

- i. The Colorado Rules of Evidence and the common law rules of evidence shall not apply. The Authority may accept into evidence any testimony or exhibit and give such evidence the weight that the Authority believes it deserves.
- ii. The Authority may accept hearsay testimony and may base its decision solely on such hearsay if such hearsay is reasonably reliable, trustworthy, and has probative value accepted by reasonable and prudent Persons in the conduct of their affairs.
- iii. The Authority shall have the ability to exclude evidence and testimony as irrelevant, cumulative, or on the grounds the witness lacks standing.
- iv. The Authority may take administrative notice of any matter contained in its file.

(m) Standing

- i. At any hearing for issuance of a new License, for denial of a new License, for renewal or for any major change in the Premises, only the following parties shall have standing to be heard:
 - a. The Applicant or Licensee;
 - b. Any Person who own property and/or resides within a one-thousand (1,000) foot radius of the Adjacent Grounds of the proposed or Licensed Premises;
 - c. Any Person who owns or is employed by any business within a one-thousand (1,000) foot radius of the Adjacent Grounds of the proposed Licensed Premises; and
 - d. The Town of Telluride.

Section 2. Safety Clause.

The Town Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town of Telluride, that it is promulgated for the health, safety, and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that this Ordinance bears a rational relation to the proper legislative object sought to be attained.

Notwithstanding defined, very limited exceptions in the Colorado Constitution, any Person who buys, sells, transfers, gives away, or acquires Retail Marijuana outside the requirements of the Colorado Retail Marijuana Code is engaging in illegal activity pursuant to Colorado law. This Article clarifies that those engaged in the business of possessing, cultivating, or selling Retail and Medical Marijuana must be properly licensed to be in compliance with Colorado law.

Section 3.

This ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided and the same shall be construed and concluded under such prior ordinances.

Section 4. Severability

If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any Person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the validity or application of the remaining portion of this ordinance.

Section 5. Effective Date

This ordinance shall become effective upon the date of publication of notice of its passage in a newspaper of general circulation within the Town of Telluride.

Section 6. Public Hearing

A public hearing on the ordinance shall be held on the 17 day of September, 2013, in the Town Council Chambers, Rebekah Hall, 113 W. Columbia, Telluride, Colorado.

INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Town of Telluride, Colorado on the 27 day of August __, 2013.

TOWN OF TELLURIDE

By: Stuart Fraser
Stuart Fraser, Mayor

ATTEST

Mary Jo Schillaci
Mary Jo Schillaci, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Telluride, Colorado this 17 day of September __, 2013.

TOWN OF TELLURIDE

By: Stuart Fraser
Stuart Fraser, Mayor

ATTEST

Mary Jo Schillaci
Mary Jo Schillaci, Town Clerk

Approved as to form:

Kevin J. Geiger
Kevin J. Geiger, Town Attorney

STATE OF COLORADO

)

COUNTY OF SAN MIGUEL

)

) ss.

)

TOWN OF TELLURIDE

)

I, Mary Jo Schillaci, the Town Clerk of the Town of Telluride, Colorado (the "Town"), do hereby certify:

- The foregoing pages are a true and correct copy of an ordinance (the "Ordinance") passed and adopted by the Town Council (the "Council") of the Town at a regular meeting of the Council held on _____.
- The Ordinance was duly moved and seconded and the Ordinance was adopted at the Town Council meeting of _____, by an affirmative vote of the members of the Council as follows:

Name	"Yes"	"No"	Absent	Abstain
Stuart Fraser, Mayor		✓		
Bob Saunders, Mayor Pro-Tem	✓			
Ann Brady		✓		
Thom Carnevale	✓			
Chris Myers	✓			
Kristen Permakoff	✓			
Brian Werner	✓			

- The Ordinance was approved and authenticated by the signature of the Mayor, sealed with the Town seal, attested by the Town Clerk and recorded in the minutes of the Council.
- There are no bylaws, rules or regulations of the Council that might prohibit the adoption of said Ordinance.
- The members of the Council were present at the meeting and voted on the passage of such Ordinance as set forth above.

(SEAL)


Mary Jo Schillaci, Town Clerk